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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,859	01/04/2001	Chad Daniel Fisher	2000-12	4297

7590 06/13/2002

KoSa  
4501 Charlotte Park Drive  
Charlotte, NC 28217-1979

EXAMINER
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SELLERS, ROBERT E

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/13/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/754,859

Applicant(s)

FISHER, CHAD DANIEL

Examiner

Robert Sellers

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-11 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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Applicant's election with traverse of Group I in Paper No. 3 is acknowledged.

The traversal is on the grounds that there is no reason why one would coat the polyester cord with an aqueous sizing composition since this would make it entirely unfit for its intended use set forth in the specification. This is not found persuasive because the basis for the coating of the polyester cord with an aqueous sizing composition need not be pertinent to the intended utility. An aqueous-sized polyester cord is a viable combination useful other than the intended utility such as manufacture of a fabric covering.

The claimed "comprising" language merely pertains to the permissible inclusion of other components and is not germane to the holding of the subcombination of the single dip adhesive not requiring the particulars of the combination of coated polyester cord or rubber composite.

The subcombination of a single dip adhesive containing an epoxy resin and resorcinol-formaldehyde latex can bond a variety of substrates other than polyester cord due to the inherent adhesiveness of phenolic resin-curable epoxy resins to metallic or fibrous substrates.

The requirement is still deemed proper and is therefore made FINAL.

Claims 12-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in Paper No. 3.

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The application has been transferred to Art Unit 1712 based on the election of claims 1-11 directed to a single dip adhesive comprising an epoxy resin and resorcinol-formaldehyde latex. The following restriction and election of species is implemented with respect to elected claims 1-11 because the previously assigned examiner possesses expertise in the technology of a coated polyester cord and a rubber composite and is unfamiliar with the examination of epoxy resin adhesives.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a single dip adhesive composition comprising an epoxy resin and a resorcinol-formaldehyde latex, classified in class 525, subclass 481.
- II. Claims 8-11, drawn to a single dip adhesive composition comprising an epoxy resin, a resorcinol-formaldehyde latex and an isocyanate, classified in class 525, subclass 528.

The inventions are distinct, each from the other because:

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a molding composition and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants.

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Claims 1-11 are generic to a plurality of disclosed patentably distinct species comprising:

- 1) The epoxy resins such as either the cresol-novolac epoxy resin of claim 4 or the sorbitol epoxy resin of claim 5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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The reply to this requirement to be complete must include an election of the invention and species of epoxy resin to be examined even though the requirement be traversed (37 CFR 1.143).

The characterization of the epoxy resin as merely "epoxy" in claims 1 and 4-7 is not concise since the art-recognized definitive term is "epoxy resin." The insertion of the word "resin" after epoxy in claims 1 and 4-7, line 1 would avoid a potential 35 U.S.C. 112, second paragraph, rejection.

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Monday to Friday from 9:30 to 6:00 EST



Robert Sellers  
Primary Examiner  
Art Unit 1712

rs  
6/12/02